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March 28, 1996

Office of the Secretary  
Federal Communications Commission  
1919 M Street NW  
Washington, D.C. 20054

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Attn: Mr. William F. Caton, Acting Secretary

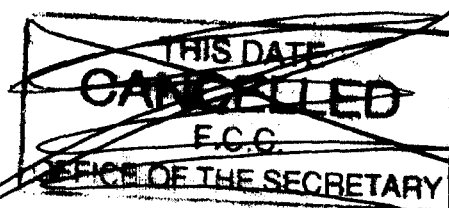
RE: IB Docket No. 95-59  
Preemption of Local Zoning  
Regulation of Satellite Earth  
Stations.

Dear Secretary Caton and Commissioners:

This letter is in response to the invitation to file comments on the matter referenced above per the commissions report and order adopted on February 29, 1996 and released on March 11, 1996.

I am a practitioner in the field of community association management and have been employed in that capacity in the Washington D.C. metropolitan area for the past fifteen years. I currently oversee the daily operations of condominium communities that comprise approximately 2000 housing units. During the past 15 years I have been involved in the management, operations and governance of several communities throughout the metropolitan area. These communities varied in size and type from townhome and garden style to high and mid-rise properties. For over 10 years I resided in a condominium community and currently reside in a homeowners association. As a practitioner and volunteer within my industry I have served on the board of directors and as President and Treasurer of the Washington Metropolitan Chapter of the Community Associations Institute (CAI). CAI is a national, non-profit organization that serves condominium and homeowners associations with over 55 local chapters throughout the United States. The Washington Metropolitan Chapter has a membership that represents over 230,000 homeowners within its jurisdictional boundaries.

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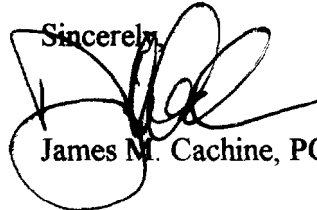
My comments to you today speak solely against the proposed new rule prohibiting enforcement of non-governmental restrictions on small antenna video reception as proposed by the addition of paragraph (f) to 25.104 of the rules, to wit:

*(f) No restrictive covenant, encumbrance, homeowners' association rule, or other non-governmental restriction shall be enforceable to the extent that it impairs a viewer's ability to receive video programming over a satellite antenna less than one meter in diameter.*

Secretary Caton and Commissioners, you should know that people who purchase homes in a community association very often rely quite heavily on the covenants governing the community of their choice and in many instances the restrictive covenants that paragraph (f) would usurp are exactly the type of restriction they embrace to insure the perpetual aesthetic harmony of their community. These homeowners have made the choice to live in a common interest community knowing that while they give up some of their "freedoms" with respect to what color to paint their house, the front door of their units or to install an antenna or other protrusion from their home, they gain in the peace of mind of the architectural and aesthetic balance within their surrounding neighborhoods and the economic and resale stability these standards tend to uphold. They rely heavily on the governing bodies of their communities to uniformly enforce the protective covenants that they agreed to abide by, along with all the other members of the community, as part of their purchase decision.

While the spirit of the rule with respect to allowing the free and unencumbered access to the airwaves appears to be well intentioned, the proposed language in paragraph (f) would be an unwarranted intrusion by a federal agency into local jurisdictional authority in general and an "in your face" to the sovereignty of community associations and their enabling documents in particular. As currently crafted paragraph (f) would create a permissive regulatory vehicle that would enable a potential proliferation of DBS dishes, albeit less than one meter in diameter, that could conceivably create scenes within residential communities not unlike urban tenements of years past with multitudes of T.V. antennae, clothes lines and utility strands scouring the horizon. For this reason and others not addressed here it is imperative that local community associations retain the authority granted to them by state statute and their governing documents to preside over these sensitive issues within their respective communities. If paragraph (f) is not stricken entirely than at least it should be modified to provide that homeowner associations should not "unreasonably" deny placement of satellite antenna's under one meter in diameter. This of course opens up a new area of controversy but it is one best addressed at the local community [association] level.

Thank you for the opportunity to present my views on this important matter to the commission.

Sincerely,  
  
James M. Cachine, PCAM

cc: Honorable Thomas M. Davis, M.C.

Enclosures: Nine (9) copies